

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Betty Gooch Bishop**

Case No. 11-80515

Chapter 13

Soc. Sec. No.: xxx-xx-5829

Address: 3901 Hulon Drive, Durham, NC 27705

Debtor

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**MOTION FOR AUTHORITY TO MODIFY CURRENT MORTGAGE**

**NOW COMES** the Debtor, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to **Modify Current Mortgage**, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtor has filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on March 28, 2011.
2. The Debtor is the owner of certain real property (hereinafter referred to as "said property") located in Durham County in the State of North Carolina and more commonly known as 2410 Harvard Avenue NC 27703.
3. The Debtor has already obtained a commitment for the modification, subject to approval by this Court.
4. The following table sets forth the approximate details of the modification:

Item	Amount
Amount being borrowed on new mortgage:	\$93,101.70
<u>Minus</u> Closing costs:	( 1,253.37)
<u>Minus</u> Payoff on the current mortgage:	( 91,848.33)
<u>Equals</u> Amount, if any, being pulled out of equity in subject real estate by the Debtor:	\$0.00
Interest Rate on new mortgage:	5%
Term of new mortgage:	480 months

5. A "Good Faith Estimate", which provides more detail, is attached herewith as an Exhibit.
6. The current monthly mortgage payment is \$827.98.
7. The Debtor has already obtained a commitment for the refinancing. The projected monthly

- payment of the new mortgage is projected to be \$664.67 per month.
8. The monthly cost of the new mortgage will be less than the monthly cost of the current mortgage.
  9. In addition to lowering her monthly mortgage payment, the Debtor wishes to finalize the modification for the following reasons:
    - a. To avail herself of a lower rate of interest on her real property
    - b. To get away from the current variable rate mortgage, and the inherent risk that the interest rate will, at some time in the future, increase to the point where the monthly mortgage payment is more than the Debtor can afford.
  10. It is therefore in the best interest of the bankruptcy estate to allow the Debtor modify current mortgage.
  11. That \$250.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtor concerning the proposed mortgage modification, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with mortgage brokers and the closing attorney for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the modification, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details.

**WHEREFORE**, the Debtor respectfully prays that the Court allow the said modification of the subject real property, approve and, allow payment of the attorney fee through the Debtor's Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: August 30, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz

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Edward Boltz  
N.C. State Bar No.:23003  
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Durham, N.C. 27705  
(919) 286-1695

(refimd.wpt rev. 11/5/09)

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**CERTIFICATE OF SERVICE**

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on August 30, 2011, I served copies of the **Motion to Modify Current Mortgage**, electronically or by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II  
Chapter 13 Trustee  
Post Office Box 3613  
Durham, NC 27702

Wells Fargo Home Mortgage  
**Re-financier**  
Post Office Box 10335  
Des Moines, IA 50306-

Michael West  
Bankruptcy Administrator  
Post Office Box 1828  
Greensboro, NC 27402

Betty Gooch Bishop  
3901 Hulon Drive  
Durham, North Carolina 27705

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

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/s Renee Nolte

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Renee Nolte